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**Congress of the United States**  
**House of Representatives**

Statement by Rep. Jim Moran  
at the  
Air Pollution Control Board Hearing  
Friday, January 25, 2008

On the Proposed  
Mirant Two Stack Merge Permit

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I thank you conducting this hearing and for the opportunity to comment on the proposed permit for Mirant to merge its five smokestacks down to two.

This permit should be denied both on substantive grounds and, if they were a factor, on more subjective grounds as well, based on Mirant's past actions and behavior. I regret that past actions and behavior are not a factor, but they merit mention nevertheless. Mirant is suing this board for its approval last June of the temporary operating permit. It began construction work on the stack merger without a permit and in clear disregard to the actions of this board and the Virginia Department of Environmental Quality. It is engaged in a public relations campaign that would have you believe that the plant has a better way to improve air quality than the City's own elected officials and professional staff. And, now I suspect it is behind the efforts to dissolve the role of this board in approving permits and make it easier to increase emissions by buying credits outside a non-attainment area. It is time for someone in the Commonwealth take action. By denying this permit, you will, at the least, prevent today's unhealthy air conditions from getting any worse.

Let me now address specific substantive reasons for why this proposed permit should be rejected.

First, as I mentioned last November, I believe you need to be vigilant on the issue of New Source Review (NSR), given Mirant's past operational modifications including the use of low-NOx burner (LNB), separated overfire air (SOFA), and Trona. NSR issues have not been resolved. Mirant has never complied with part of EPA's June 2006 administrative order to complete a Trona New Source Review applicability analysis. To my knowledge, no adequate analysis was ever done by Mirant. And now, Mirant wants to invest millions to merge the plant's stacks, claiming that Trona is an integral part of the stack merge project. I can only assume that this major capital investment is motivated by Mirant's desire to increase the plant's level of operations. Since the stack merger, by itself, is a prohibited dispersion technique under federal and state regulations (40 CFR 51.100(hh)(1)(iii) and 9 VAC 5-10-20), the use of Trona becomes an integral part of its strategy to increase operations. If so, then the cumulative changes to the plant and both the use of Trona and the stack merger warrant a full New Source Review.

Virginia Department of Environmental Quality (DEQ) has never publicly disclosed the outcome of its NSR applicability analysis. I would encourage you to request that this analysis be made available to the public.

Second, the permit contains no emissions limit on particulate matter smaller than 2.5 microns per meter (PM2.5) and no emissions limit on mercury. These are gross oversights that need to be corrected. Given the fact that Northern Virginia is a nonattainment area for PM2.5, using PM10 as a surrogate for PM2.5 is puzzling at best and an abdication of responsibility at worst. Without National Ambient Air Quality Standards (NAAQS) for PM2.5, the proposed permit is not comprehensive, nor is it aimed at protecting public health. It is my understanding that New Jersey, New York and Connecticut have all set NAAQS-compliant PM2.5 emission limits. It can be done, and this board should require DEQ to make it happen.

Third, it troubles me to learn that Mirant has known for several years that its carbon monoxide (CO) emissions are greater than the approximately 250 ton per year that it has reported in its past annual emissions statements. These CO emissions were increased even further following the installation of low NOx burners and SOFA controls. Now, under the proposed permit, Mirant would be allowed to increase its annual CO limit based on future data it will collect from CO continuous emissions monitors (CEMS). It would appear that past modifications have significantly altered operations, which I am led to believe should trigger a New Source Review.

This plant continues to merit the special attention of this board and the Virginia Department of Environmental Quality. The deeper one probes, the more troubling the findings. There is still a great deal we do not know and what little we do is not adequately addressed by this proposed permit. It should be rejected. Not enough has been done to safeguard the public's health from harmful emissions.

I look forward to following your progress on this most critical issue.

Thank you.